

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KATHLEEN OWEN, as Personal  
Representative of the ESTATE OF  
ZACHARY MURPHY, deceased

Plaintiff,

Case No.: 2:14-cv-13923  
HON. TERRENCE G. BERG

-vs-

TOWNSHIP OF REDFORD, CHIEF ERIC PAHL,  
SERGEANT BRADLEY PHILLIP KENNEDY,  
OFFICER KENNETH BOETH, OFFICER KRAMER,  
OFFICER SCOTT GARRETT IVEY,  
OFFICER KEVIN BURKHEISER and  
SERGEANT KEVIN CRITTENDEN, jointly and severally,

Defendants.

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REBECCA H. FILIATRAUT (P46443)  
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**MOTION TO APPROVE DISTRIBUTION OF**  
**REMAINING WRONGFUL DEATH SETTLEMENT PROCEEDS**

Now comes Plaintiff, Kathleen Owen, Personal Representative for the Estate of Zachary William Murphy, deceased (“Estate”), who in support of this Motion states unto this Honorable Court as follows:

1. Zachary William Murphy died on August 1, 2013 as a result of a suicide committed while in Redford County Jail.
2. The Decedent's death resulted in his Estate pursuing a wrongful death claim against Redford Township.
3. The claim has settled for a confidential amount previously approved by the Court after a hearing on a Motion to Approve Settlement which was filed under seal due to the confidential terms of the settlement.
4. The Order Approving Settlement, also filed under seal, sets aside the remainder of settlement proceeds, after payment/set aside of attorney fees and costs, for distribution to the wrongful death claimants as provided by MCL 600.2922.
5. Plaintiff now seeks approval of the proposed distribution of the remaining wrongful death proceeds.
6. Pursuant to MCL 600.2922(6)(d), no wrongful death proceeds should be paid to the Estate for conscious pain and suffering as there is no evidence of the same.
7. Pursuant to MCL 600.2922(6)(d), Plaintiff is unaware of any outstanding claims for funeral, burial, medical or hospital expenses for which the Estate is liable.
8. The wrongful death claimants identified by MCL 600.2922(3) include the following persons:

Adriana Murphy, minor daughter  
13027 County Rd 612  
Kalkaska, MI 49646

Zachary William Murphy, II, minor son  
13027 County Rd 612  
Kalkaska, MI 49646

Kathleen Owen, mother  
19310 Centralia  
Redford, MI 48210

Daniel Murphy, father  
1343 N. Butte Ave.  
Chandler, AZ 85226

Ashlyn Murphy, half-sister, minor  
1343 N. Butte Ave.  
Chandler, AZ 85226

Danica Murphy, half sister  
1101 Leslie Street  
Prescott, AZ 86301

Brandon Owen, half brother  
20203 Deering  
Livonia, MI 48152

Brianna Owen, half-sister  
17706 Five Points  
Detroit, MI 48240

Ian Murphy, brother  
9920 Bassett Street  
Livonia, MI 48152

9. At the time of the hearing on this Motion, two of the wrongful death claimants, the Decedent's minor children, Adriana Murphy and Zachary William

Murphy, II, will have a duly appointed Conservator, Amy Murphy<sup>1</sup>, and therefore, the appointment of a guardian ad litem is not necessary to protect their interests (see MCL 600.2922(6)(c)).

10.A third claimant, Ashlyn Murphy is also a minor, and to Plaintiff's knowledge, does not have a fiduciary. Therefore, appointment of a Guardian ad Litem is necessary to assess the proposed distribution to Ashlyn Murphy. An ex-parte motion for appointment of Guardian ad Litem is being filed simultaneously with this motion. Plaintiff is seeking to set aside Seven Hundred Fifty Dollars (\$750.00) for payment of the Guardian ad Litem's fee.

11.The Darren Findling Law Firm, retained to provide probate estate services and to assist with the wrongful death settlement and distribution, is seeking additional payment of reasonable attorney fees and costs incurred in the amount of Three Thousand Three Hundred and 00/100 Dollars (\$3,300.00)<sup>2</sup>.

12.Plaintiff is seeking distribution of the remaining proceeds to the wrongful death claimants for loss of support, society and companionship, as follows:

- Adriana Murphy 42.5%

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<sup>1</sup> Petitions for Appointment of Conservator have been filed in the Kalkaska County Probate Court and are set to be heard on May 17, 2016. The Letters of Conservatorship will be available at the hearing on this Motion.

<sup>2</sup> The Court previously approved \$3,123.00 in fees and costs and a set aside of \$1,877.00 for a total of \$5,000. The Darren Findling Law Firm is requesting approval of the \$1,877.00 plus an additional \$1,423.00 for services provided related to the distribution and estate (for a total fee of \$6,423.00). A summary of services will be available at the hearing.

- Zachary William Murphy, II 42.5%
- Kathleen Owen 15%
- Daniel Murphy \$0.00
- Ashlyn Murphy \$0.00
- Danica Murphy \$0.00
- Ian Murphy \$0.00
- Brandon Owen \$0.00
- Brianna Owen \$0.00

13. The wrongful death claimants have been afforded with Notice of Hearing and copy of this Motion within the time afforded by law prior to the scheduled hearing.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court approve the guardian ad litem fee, attorney fees and costs and proposed distribution of the remaining wrongful death settlement proceeds.

Respectfully submitted,

/s/ Rebecca H. Filiatraut  
Rebecca H. Filiatraut (P46443)  
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Dated: May 12, 2016

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**BRIEF IN SUPPORT OF MOTION TO APPROVE DISTRIBUTION OF  
REMAINING WRONGFUL DEATH SETTLEMENT PROCEEDS**

Now comes Plaintiff, Kathleen Owen, Personal Representative for the Estate  
of Zachary William Murphy, deceased, who in support of this Brief states unto this  
Honorable Court as follows:

Plaintiff relies on MCL 600.2922 in support of this Motion.

Respectfully submitted,

/s/ Rebecca H. Filiatraut  
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Royal Oak, MI 48067  
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**CERTIFICATE OF SERVICE**

On May 12, 2016, I electronically filed the Motion to Approve Distribution  
of Remaining Wrongful Death Proceeds and Brief in Support via the court's



electronic filing system which will send notification of such filing to Jeffrey R. Clark as well as all persons registered to receive such notice.

“I declare under penalties of perjury that the foregoing statement is true and correct to the best of my information and belief.”

Dated: May 12, 2016

/s/ Kristy L. Biddinger  
Kristy L. Biddinger